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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,156	07/17/2000	Darrell Metcalf		8276
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Darrell Metcalf 905 N Oak Avenue Fillmore, CA 93015			EXAMINER MOONEYHAM, JANICE A	
			ART UNIT	PAPER NUMBER
			3629	
DATE MAILED: 12/13/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/617,156	Applicant(s) METCALF, DARRELL	
	Examiner Janice A. Mooneyham	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 40-55,57-100 and 102-115 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 40-55,57-100 and 102-115 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is in response to the applicant's communication filed on June 25, 2004, wherein:

Claims 40-55, 57-100, and 102-115 are currently pending;

Claims 40, 42, 47, 60-64, 66, 71, 76-77, 84, 87-88, 93-94, 100, and 102-113 have been amended.

Claims 56 and 101 have been cancelled.

Claims 114-115 have been added.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 25, 2004 has been entered.

Claim Objections

3. Claims 41, 43-46, 48-55, 57-59, 65, 67-70, 72-75, 78-83, 85-86, 89-92, and 95-99 are objected to because of the following informalities: The status identifier "previously amended" and "previously added" is incorrect. The appropriate identifier is "previously presented". Appropriate correction is required.

4. Claims 54, 62, 54-65, 68, 73, and 81-95 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a

previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

For example, claim 54 reads "the claim of 40". It should read "the system of claim 40".

Claim 62 should refer to "the system of claim 61, wherein the computer workstation comprises..."

Claim 64 should refer to "the system of claim 61, wherein the perimeter forming arrangement"

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 40-55, 57-100, and 102-115 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. How does the invention work with an online-networked venue rather than a physical facility?
6. Claim 61 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The claim language reads:

wherein said at least one physical facility is further comprised of a secured retail inventory environment wherein a plurality of networked computers are provided as customer workstations and are arranged in close proximity to one another to form a perimeter which isolates and secures said inventory in a consolidated and space-saving manner and is thereby out of reach of customer until purchased.

How does this provide a secured inventory environment? How does it isolate and secure the inventory in a consolidated and space-saving manner? How is the robotic apparatus activated and how is it positioned?

7. Claim 66 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Applicant states that the secured entertainment-content replication environment and retail-inventory are networked computer workstations arranged in close proximity to one another to form a perimeter which isolates and secures entertainment-content replication equipment. How does this isolate and secure equipment?

8. Claim 82 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

How does the applicant enable the scheduling of an optimum flow rate of customers of

Art Unit: 3629

up to a 100% capacity of a venue? How does the applicant aid in optimally staffing venue personnel?

9. Claim 100 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The applicant has the user selectable choice pertaining to deliverables currently available from online networked-venue equipped to fulfill orders. How does the invention perform the step of guaranteeing any purchase and reserving them at a facility if the venue is an online networked-venue?

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 40-99 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant identifies the invention as a system. However, the applicant tries to identify the invention with method steps rather than structure. It appears from the claim language that the applicant is claiming two statutory classes in the same claims.

11. Claim 40 recites the limitation "said browser device" in (b). There is insufficient antecedent basis for this limitation in the claim since the applicant amended the language to a browser apparatus in 40(a).

12. Claims 40 and 100 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what the applicant means by the language *representing at least one currently available deliverable*. What are deliverables?

What does the language *online-choices and available networked-venue-choices* mean? What is a networked-venue choice?

13. Claim 47 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 47 depends on Claim 40. Claim 40 identifies a network user identification and verification means. Claim 47 identifies it as an identification and *order* verification means.

14. Claim 48 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant defines the system by the method it performs rather than the structure. Does the applicant mean that the system comprises a printer?

15. Claim 53 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the Examiner what the applicant means by facilitating the delivery of online order(s). What does this encompass? Does it mean printing a label or mailing the item?

Art Unit: 3629

16. Claim 58 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The language *wherein the browser apparatus consists of at least one computer located at a plurality of physical facilities* is unclear. It is not clear how one computer can be located at a plurality of physical facilities.

17. Claim 61-69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what the applicant is trying to claim with the following language:

Wherein said at least one physical facility is further comprised of a secured retail inventory environment wherein a plurality of networked computers are provided as customer workstations and are arranged in close proximity to one another to form a perimeter which isolates and secures said inventory in a consolidated and space-saving manner and is thereby out of reach of customer until purchased.

How does a perimeter isolate and secure an inventory?

Furthermore, the applicant has not positively claimed a physical facility in claim 40. The facility is not really apart of the electronic dual commerce system for establishing a bi-directional communication link between at least one customer and a large publicly accessible communications network for providing dual commerce transactions as claimed in claim 40. In claims 61-69 are directed to the properties of the physical facility, not the network.

Art Unit: 3629

18. Claim 64 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The applicant states that the combination of which is responsive to user input made with a user control input device and control signals from at least one computer that is networked to the workstation system. Is the user the consumer or the merchant? Who is operating the system? If it is the merchant, how is this system connected to and operative with the system of claim 40?

19. Claim 66 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant is further identifying the facility. Moreover, it is unclear how an entertainment-content replication environment and retail inventory fit with the invention in claim 40.

20. Claims 67-68 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. What does the applicant mean by multimedia-playback software routines and multimedia content for facilitating customer transaction with the playback of the content? It is unclear what the applicant means by facilitating customer transaction? What does the applicant mean by the multimedia content has meaning that is relevant to the context of customer transactions and interactions and is synchronous thereto? What does the applicant mean by relevant to the context of the transaction? What does the applicant mean by synchronous thereto?

Art Unit: 3629

21. Claims 81 and 100 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. What does the applicant mean by the language according to at least one current condition of a chronological table of scheduled and available customer-events?

22. Claim 100 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim displays information for placing and order. However, the applicant never has the user actually place an order. Therefore, it is not clear how the user schedules and reserves orders from an online networked-venue.

23. Claim 102 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. What does the applicant mean by at least one current condition of a chronological table of scheduled and available customer events? What does the applicant define as a current condition?

24. Claim 105 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. What does the applicant mean by consolidating an order of a plurality of deliverables from a plurality of online represented networked venues? What does the applicant do if the sale is not culminated at a physical facility?

Claim Rejections

The Examiner finds that because claim(s) are replete with 35 U.S.C. 112 1st and 2nd paragraph rejections, it is difficult if not impossible to completely construe claim scope at this time. However, in accordance with MPEP §2173.06 and the USPTO's policy of providing art rejections even though the claim(s) contain 35 U.S.C. 112 2nd paragraph rejections, the claims are construed and the art is applied *as much as practically possible*. As noted below, Applicant(s) are invited to contact the Examiner if additional assistance is needed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

25. Claim 100 and 102-115 are rejected under 35 U.S.C. 102(e) as being anticipated by DeLorme et al (US 5,948,040) (hereinafter referred to as DeLorme).

Referring to Claim 100:

DeLorme discloses a method for enabling online dual-commerce orders over a large publicly accessible communications network, comprising the steps of:

establishing a network connection between at least one computer system via a communication link with a communication network, said system having a database of records pertaining to dual commerce deliverables (Figure 2; col. 1, lines 29-47; col. 7, line 66 thru col. 8, line 32, Figure 8A);

establishing a connection of a browser apparatus equipped with network-browsing software and a communications link with the communications network (col. 8, lines 33-54; col. 13, lines 31-67; col. 14, lines 43-53);

executing network-browsing software interface means to facilitate user-navigation to at least one website accessible on the network, the interface providing the steps of:

displaying user selectable choices pertaining to at least one deliverable currently available from online networked venue which is equipped to fulfill online orders place by online customers (col. 1, lines 29-47);

displaying user selectable choices pertaining to at least one deliverable currently available from a physical facility which is equipped to serve a flow of customers at a physical location (col. 8, lines 44-48);

displaying a current database selection of choices of goods, services or activities available at the online networked venue or a physical facility (col. 8, lines 49-54; col. 11, lines 40-49);

displaying choices for inputting customer orders from the choices provided 9col. 8, lines 49-54);

displaying software interface choices for completion of the order (Figure 6);

displaying choices for scheduling and reserving the order (Figure 6).

displaying software choices for downloading at least one itinerary (col. 15, lines 33-46);

regularly updating the database of records pertaining to the availability of deliverables (col. 13, lines 52-58);

displaying customer selectable choices in the interface (col. 15, lines 33-46);

providing a guarantee that any purchase of goods or services which are displayed will be reserved and available at the physical venue when any physical venue order is subsequently culminated following the arrival of the customer at the facility (col. 11, line 61 thru col. 12, line 6).

Referring to Claim 102-115:

DeLorme discloses a method comprising the steps of:

verifying the identity of an online user (col. 34, lines 26-36);

displaying a graphical user interface (Figure 1A);

displaying a current database selection of available choices among deliverables provided by a plurality of online networked venues (Figure 4 (415, 417, 419);

accepting an order and order payment (col. 12, lines 6-9);

monitoring and updating the database of deliverables (col. 13, lines 52-58 and col. 14, lines 24-32);

consolidating an order for plurality of deliverables from a plurality of online represented networked venues into a single invoice (col. 15, lines 33-39);

reserving, scheduling and creating an itinerary (col. 1, lines 29-47; col. 8, lines 55-57; col. 12, lines 6-9).

transmitting notification information pertaining to online order to respective seller (col. 12, lines 6-9);

updating the database (col. 13, lines 52-57);
notifying a seller of at least one scheduled arrival time by a customer (col. 78, lines 11-21);
calculating revenues (col. 6, lines 33-36).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

26. Claims 40-55, 57-60, 66-71, 76-78, and 80-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fulton et al. (US Patent No. 6,182, 052) (hereinafter referred to as Fulton) in view of Chelliah et al. (US Patent No. 5, 710, 887) (hereinafter referred to as Chelliah).

Referring to Claims 40, 43, 45, 47, and 76-77, 80-83, 85, 86, 88:

Fulton discloses an electronic dual commerce system and reservation system for establishing a bi-directional communication link between at least one customer and a large publicly accessible communications network for providing online dual commerce transactions, comprising:

an apparatus having network software (col. 3, line 41 thru col. 4, line 6);
a network connection means for connecting the at least one networked computer of a communication network (col. 3, lines 40-54);
a network-user identification and verification means (col. 2, lines 34-38, col. 4, lines 37-44; col. 6, lines 27-39);

a network software and user interface (col. 1, lines 56-64 and col. 3, line 41 thru col. 4, line 6) ;

Fulton does not explicitly disclose a browser or wherein the system further comprising editing, monitoring and reporting means responsive to changes in the database selection.

However, Chelliah discloses a browser (col. 12, lines 1-9) wherein the system further comprising editing, monitoring and reporting means responsive to changes in the database selection (col. 3, lines 47-56, col. 14, line 63 thru col. 15, line 5).

It would have been obvious to one of ordinary skill in the art to incorporate into the system for online services disclosed in Fulton the a browser and the editing and monitoring capabilities of Chelliah so as to allow the customer to access the site using the browser and thereafter, since a shopper may change their mind, electing not to purchase a selected item, and the Puchase List must be updated.

Referring to Claims 41-42, 84, and 87:

Fulton discloses an apparatus consisting of a handheld apparatus/computer having wireless bi-directional connectivity to the network (col. 4, line 5 thru col. 5, line 13).

Referring to Claims 44 and 46:

Chelliah discloses network connection comprise an Internet portal; said connection made by an Internet Service Provider (col. 1, lines 11-15; col. 12, lines 1-9).

Referring to Claim 48:

Chelliah discloses a means for printing (Figure 8 (192), Figure 8A (188); col. 17, lines 31-44).

Referring to Claims 49-51:

Chelliah discloses system capable of automatically providing transaction details to the parties (col. 25, lines 16-68; Figure 8 (170)).

Referring to Claims 52 and 78:

Chelliah discloses a system capable of calculating, deducting, and allocating revenues (col. 12, lines 43-50; col. 21, lines 20-59, Figure 11(262)).

Referring to Claims 53-55:

Fulton discloses a system capable of communicating online orders, confirming the orders and verifying the customer's identification (col. 1, lines 56-64; col. 6, lines 27-39).

Referring to Claims 57-58, and 60:

The location of the computers, the number of computers, the type of facilities are non-functional descriptive data which adds little, if anything to the claimed structure and thus do not serve as a limitation on the claims to distinguish them over the prior art.

The method and system would operate the same regardless of the number of computers, the location of the computers, and the type of facilities. See *In re Gulack*, 703 F 2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowery*, 32 F 3d 1579, 32 USPQ 2d 1031 (Fed Cir. 1994).

Referring to Claims 59 and 89:

Fulton discloses a system capable of entering, recording, and reporting financial transaction information (col. 6, line 40 thru col. 10, line 45).

Referring to Claims 66-71:

Fulton discloses wherein at least one networked computer comprises multimedia content playback means and a optimized networked workstation system wherein each of said workstations provide software and hardware means for browsing, previewing, ordering, uploading, and keeping a computer-accessible record of order transaction details pertaining to orders for, and uploading of, medialess digitally-recorded entertainment-content such as MP3 (Mpeg 3) files that are ordered and received by customers having networked communication with said system (Figs. 1-18c, col. 4, line 65 thru col. 6, line 30).

27. Claims 61-65 and 79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fulton and Chelliah as applied to claims 40 and 76 and further in view of Rosenberg et al. (US Patent No. 6,418,416) (hereinafter referred to as Rosenberg).

Referring to Claim 61-65 and 79:

Fulton and Chelliah discloses a networked venue as disclosed in claims 40 and 76. Neither Fulton nor Chelliah disclose a secured retail inventory management system.

However, Rosenberg discloses a inventory management system wherein networked workstations are arranged to secure an inventory of merchandise in an

Art Unit: 3629

optimized workstation system such that said inventory is consolidated in a space-saving manner and is out of reach to customers until purchased (the examiner takes Official Notice that all e-commerce inventory is out of reach to customer until purchased), and wherein each of said workstations:

a.) comprises a networked computer having connectivity to at least one network, and has a user interface to facilitate transactions and interactions (Figure 1) ,

b.) has networked order-taking apparatus and software routines to facilitate user financial transactions and for reporting and recording said transactions (Fig. 4-18c; col. 4, lines 28-50).

c.) has record-keeping and record-updating software routines to automatically record transaction details pertaining to any workstation order and to update and report the availability of merchandise, according to the order(s) made (Figs. 1-18c; col. 5, lines 5-27; col. 5, lines 38-58).

a.) at least one motion-control computer with motion-control software that is networked to the workstation system (col. 1, line 49 thru col. 2, line 3; col. 4, lines 10-20)

b.) a multiplicity of securely located merchandise slots that are vertically aligned in columns and horizontally aligned in rows (Figure 1, col. 3, lines 55-67);

c.) at least one computer-accessible record of the vertical position and horizontal position of each said merchandise slots (col. 4, lines 21-27);

- d.) at least one updateable computer-accessible record of the vertical position and horizontal position of said merchandise slots and the type of merchandise stored therein (col. 4, lines 10-50; col. 8, lines 6-11; Figure 16);
- e.) at least one computer-accessible record of the vertical position and horizontal position of a receiving end of each workstation delivery chute located adjacent to each workstation (col. 3, line 55 thru col. 6, line 20)
- f.) a motion controller interface coupled between said motion-control computer(s) and electro-mechanical actuators (col. 4, lines 10-20);
- g.) at least one motion-controllable member that is positionable by said actuator(s) in a horizontal axis having a pick-and-place robotic apparatus operative from an end thereof that is positionable in a vertical axis by said actuator(s) (col. 3, line 55 thru col. 6, lines 30);
- h.) an means that is positionable to securely grip merchandise and move it in and out of any merchandise slot and to also move it into a receiving end of any workstation delivery chute the combination of which is responsive to user input with, and control signals from, at least one computer that is networked to the workstation system to provide (Figure 1 9125), col. 4, lines 28-34, col. 6, line 30 Functional Description);
- i. stocking, retrieval and re-stocking of merchandise (Figure 18A (464)); and
- ii. automated delivery of said merchandise to a user's workstation chute by accessing at least one of said computer-storable record and communicating the record data to said motion-control computer for the computer-controlled positioning of said

Art Unit: 3629

member(s), said pick-and-place robotic apparatus, and said means (col. 1, line 49 thru col. 2, line 44)

iii. merchant input from a networked computer for automated pick-and-place control of inventory (col 1, line 49 thru col. 2, line 44).

Rosenberg further discloses an automated merchandise pick-and-place system for secured retail inventory comprising rapid inventorying apparatus comprising at least one emitter-detector light sensing means that is positionable by computer motion-control to sweep in a controlled path past merchandise slots and interpret the difference in light reflectivity of vacant container slots and container slots occupied with merchandise, and rapidly scans slot-empty states or slot-occupied states and records, maintains and reports all state-conditions of the inventory to said record-keeping and record-updating software (col. 4, lines 1-50).

Rosenberg does not disclose a gripping means. However, it would have been obvious to one of ordinary skill in the art to incorporate a gripping means into the method and system of Rosenberg since this would provide a way for the items or articles to be retrieved once they are ordered.

It would have been obvious to one of ordinary skill in the art to incorporate in the method and system of Fulton and Chelliah the teachings of Rosenberg since distributed networks such as the Internet facilitate the controlled dispensing, inventorying and re-ordering of supplies which can prevent the occurrence of inventory shortages, overstocking and pilferage.

28. Claims 90-99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fulton and Chelliah as applied to claim 40 and further in view of DeLorme et al (US 5,948,040) (hereinafter referred to as DeLorme).

Referring to Claims 90-95:

Fulton and Chelliah disclose the communication network of claim 40. Neither Fulton nor Chelliah disclose the apparatus further comprising a Global Positioning System (GPS), a graphical display screen, a communications link, and a means for coordinating, relating and displaying the GPS information to a user, and an audio playback means.

However, DeLorme discloses an apparatus further comprising a Global Positioning System (GPS), a graphical display screen, a communications link, and a means for coordinating, relating and displaying the GPS information to a user, and an audio playback means (Figure 9B).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the communication network of Fulton and Chelliah the GPS system taught in DeLorme so as to provide data on the user's location, speed and travel direction and the current time and to enable the user to get travel information or travel arrangements on the go.

Referring to Claims 96-99:

DeLorme discloses wherein the apparatus further comprises a cellular phone, a pager, a PDA, or a multimedia recording and playback means (col. 75, lines 33-45).

Response to Arguments

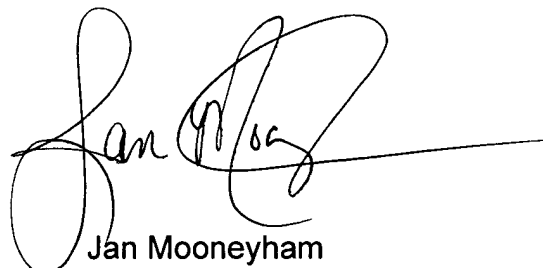
Applicant's arguments filed June 25, 2004 have been fully considered but they are not persuasive.

Applicant primarily argues that the applicant's invention is for scheduling itineraries to multiple venues referred to as Trip Linking. However, upon reviewing the applicant's claims, this aspect of the invention is not presented in such a way as to make it clear to anyone reviewing the claims. Claims 40-55, and 57-60 are directed to an electronic dual commerce system for establishing communication between at least one customer and a large accessible communication network. Claims 61-63 describe a physical facility and workstations. Claims 63-65 are directed to an automated merchandise pick up and place system with a robotic apparatus. Claim 66 is directed to a physical facility with a secured entertainment content replication environment. Claim 76 is directed to an electronic dual commerce and reservation system for establishing a bi-directional communication link between at least one customer and a large publicly accessible communication network. The applicant identifies a GPS system in dependent claim 90. Claim 100 is directed to a method for enabling online dual commerce orders. Claim 108 is directed to a method of employing the Internet in an electronic commerce and reservation system dual commerce capacity. The applicant has failed to positively claim the invention that applicant identified to the Examiner in the telephone interview and argues in the remarks and Appendix A where applicant identifies the invention as expedited time-saving dual-commerce system excursion with trip linking benefits.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janice A. Mooneyham whose telephone number is (571) 272-6805. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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